

IN THE HIGH COURT OF HIMACHAL PRADESH
AT SHIMLA

RFA No. 115 of 2004

Reserved on : 2nd August, 2007

Date of Decision: 23rd August, 2007

State of H.P. and another	Appellants
Versus	
Narain Singh and others	Respondents

Coram

The Hon’ble Mr. Justice Sanjay Karol,J.

Whether approved for reporting¹? No.

For the appellants: Mr.C.B.Singh, Dy. Advocate General.

For respondents 1 to 4, : Mr.G.D.Verma, Sr. Advocate, with
37,38 & 40 to 54 & also Mr.B.C.Verma, Advocate.
for LR’s of Respondent
No.17.

Sanjay Karol, J.

The appellants have assailed the award dated 7th October, 2003 passed by learned District Judge, Solan, in Petition No.15-S/4 of 2001, titled as Chain Singh and others vs. State of H.P. and another, whereby compensation awarded by the Land Acquisition Collector has been enhanced to Rs.70,000/- per bigha.

The respondents’ land comprised in Khewat Khatauni No.1/1, Khasra Nos. 88/2, 95/2, measuring 5 Biswas, situate in Village Rauri, Tehsil Kasauli, District Solan, H.P. was acquired by issuance of Notification dated 17.1.1991 under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) for public purpose i.e. widening of Dharampur – Subathu road and award No.12/1993 dated 14.1.1994 by the Land

¹Whether the reporters of Local Papers are allowed to see the Judgment?

Acquisition Collector, Solan, whereby the Collector awarded compensation of Rs.6000/- per bigha.

Feeling aggrieved and dissatisfied, the respondents preferred a Reference Petition under Section 18 of the Act. To prove their case, the respondents-claimants examined 8 witnesses and also got exhibited sale instances being sale deeds Ext.PW-2/A, Ext.PW-4/A and Ext.-6/A. Additionally, copies of awards passed by the Courts in Reference Petitions under Section 18 of the Act being Ext.PW-1/A dated 14.1.1994, Ext.PW-1/B dated 30.9.1999 were also exhibited and proved on record.

The Collector in terms of his award dated 14.1.1994 has observed that no one year average price in village Rauri has been worked out by the Field Staff but after careful examination of the material on record and inspection of the spot after personally visiting the same, the land in question has potential of commercial growth, use and value being adjoining to the road leading to Dharampur – Subathu township etc.

The Court below has enhanced the compensation payable to the respondents-claimants from Rs.6000/- per bigha to Rs.70,000/- per Bigha on the basis of Ext.PW-2/A, which is the sale deed pertaining to 7 Biswas of land sold for Rs.1,15,000/- per bigha.

From the statements of Shri Deen Dayal (PW-1), Shri Pali Ram (PW-2), Shri Hari Chand (PW-3), Shri Dakhu (PW-4), Shri Sunder Singh (PW-5), Shri Damodar Verma (PW-6), Shri Champa Singh (PW-7), and Shri Ghanshayam Dass (PW-8), it is evident that the sale transaction land, acquired land in terms of award Ext.PW1/B and land in question are similar and adjacent to each other. In fact the award Ext.PW-1/B was passed on the basis of sale deed Ex.PW-2/A. Thus from the deposition of the witnesses as also from the observations of the Collector in his award, it

is proved that the land in question is not only similarly situated but also has potential for growth as commercial use and value.

Learned Deputy Advocate General in all fairness has brought to my notice that the interest on the enhanced amount of compensation, in terms of provisions of Section 28 of the Act, has to be from the date of Notification under Section 4 of the Act and the Court below has wrongly awarded the same from the date of possession, which is subsequent to the date of Notification. This part of the award is consequently modified and it is held that the respondents-claimants shall also be entitled to interest on the enhanced amount from the date of Notification under Section 4 of the Act keeping in view the ratio of law laid down in *R.L.Jain (D) by LRs vs. DDA and others*, reported in (2004) 4 SCC 79.

For the foregoing reason, I am of the considered view that there is no illegality, irregularity or perversity in the impugned award in determining the fair market value due and payable to the land owners at Rs.70,000/- per bigha. The impugned award is modified to the aforesaid extent indicated above. The appeal is disposed of accordingly.

23rd August, 2007
(C)

(Sanjay Karol)
Judge